Hovsepian v. Apple, Inc.
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EXHIBIT 11

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Received		
Paul Yurt *et al.*	JUN 07 1999	Art Unit:	2734
Appln. No.: 08/630,590	Group 2700	Examiner:	A. Le
Filed: April 10, 1996		Atty. Docket:	03047.0006.US03
For: Audio and Video Transmission and Receiving System			

Reply and Amendment Under 37 C.F.R. § 1.111

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action dated March 10, 1999, (PTO Prosecution File Wrapper Paper No. 15), Applicants submit the following Amendment and Remarks.

It is not believed that extensions of time or fees for net addition of claims are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to our Deposit Account No. 08-3038.

Amendments

In the Claims:

Please cancel claims 33-42 and add the following new claims 43-53.

1--~~43~~. A transmission system responsive to input from a user positioned at an accessing location for transmitting information to a premises selected by the user, the transmission system comprising:

a plurality of libraries for storing items containing information;

identification encoding means for retrieving the information in the items from the plurality of libraries and for assigning a unique identification code to the retrieved information;

conversion means, coupled to the identification encoding means, for placing the retrieved information into a predetermined format as formatted data; and

transmitter means, coupled to the conversion means, for transmitting the formatted data to the premises selected by the user, wherein the premises selected by the user is not limited to a predetermined user premises.

2 ~~44~~. A transmission system as recited in claim 1 ~~43~~, wherein the plurality of libraries are geographically separated.

4 ~~45~~. A digital audio/video communication network comprising:

a reception system in data communication with a plurality of subscriber selectable receiving stations, the reception system comprising,

means for receiving compressed, digitized data representing at least one item of audio/video information at a non-real time rate,

means for storing a complete copy of the received compressed, digitized data, and

means, responsive to the stored compressed, digitized data, for transmitting a representation of the at least one item of audio/video information at a real-time rate to at least one of the plurality of subscriber selectable receiving stations, wherein said means for receiving, said means for storing, and said means for transmitting are positioned at the same location, and wherein the at least one of the plurality of subscriber selectable stations is located at a premises geographically separated from the location of the reception system.

5 ~~46~~. A digital audio/video communication network as recited in claim 4 ~~45~~, wherein the means for transmitting comprises a converter for decompressing the compressed digitized data representing the at least one item of audio/video information.

6 ~~47~~. A digital audio/video communication network as recited in claim 4 ~~45~~, further comprising a processing station for formatting items of audio/video information as compressed, digitized data and transmitting the compressed, digitized data representing at least one item of audio/video information at the non-real time rate to the means for receiving.

7 ~~48~~. A digital audio/video communication network as recited in claim 6 ~~47~~, wherein the processing station comprises:

means for inputting items of audio/video information;

conversion means for placing each input item of audio/video information into a predetermined format as formatted data;

compression means for compressing the formatted data; and

transmitter means for sending compressed formatted data for the at least one item of audio/video information at the non-real time rate to the reception system.

8 ~~49~~. A method of distributing audio/video information comprising:

transmitting compressed, digitized data representing a complete copy of at least one item of audio/video information at a non-real time rate from a central processing location to a local distribution system remote from the central processing location;

receiving, into a receiving means, the transmitted compressed, digitized data representing a complete copy of the at least one item;

storing, in a storing means, the received compressed, digitized data representing the complete copy of the at least one item at the local distribution system; and

in response to the stored compressed, digitized data, transmitting, using a transmitting means, a representation of the at least one item at a real-time rate to at least one of a plurality of subscriber selectable receiving stations coupled to the local distribution system, wherein the receiving means, the storing means, and the transmitting means are positioned at the same location, and wherein the at least one of the plurality of subscriber selectable stations is located at a premises geographically separated from the local distribution system.

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9 ~~50~~. A method as recited in claim 8 ~~49~~, further comprising the step of decompressing the compressed, digitized data representing the complete copy of the at least one item of audio/video information before the transmitting step.

10 ~~51~~. A method as recited in claim 9 ~~50~~, wherein the decompressing step is performed in the local distribution system to produce the representation of the at least one item for transmission to the at least one of the plurality of subscriber selectable receiving stations.

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~~52~~. A method of distributing audio/video information comprising:

formatting items of audio/video information as compressed digitized data at a central processing location;

transmitting compressed, digitized data representing a complete copy of at least one item of audio/video information from the central processing location;

receiving, into a receiving means, the transmitted compressed, digitized data representing a complete copy of the at least one item of audio/video information at a local distribution system;

storing, in a storing means, the received compressed, digitized data representing the complete copy of the at least one item at the local distribution system; and

using the stored compressed, digitized data to transmit using a transmitting means a representation of the at least one item to at least one of a plurality of subscriber selectable receiving stations coupled to the local distribution system, wherein the receiving means, the storing means, and the transmitting means are positioned at the same location, and wherein the at least one of the plurality of subscriber selectable stations is located at a premises geographically separated from the location of the local distribution system.

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~~53~~. A transmission system as recited in claim 1 ~~43~~, wherein the premises selected by the user is geographically separated from the accessing location.--

Remarks

Applicants thank the Examiner for the courteous and helpful interview conducted on May 26, 1999. Pursuant to that interview and this Amendment, reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 43-53 are pending in the application, with claims 43, 45, 49, and 52 being the independent claims. Applicants seek to cancel claims 33-42 without prejudice to or disclaimer of the subject matter therein. Applicants further seek to add new claims 43-52, which correspond respectively to cancelled claims 33-42. Applicants have also added new dependent claim 53. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following Remarks, Applicants respectfully request that the examiner reconsider all outstanding rejections and they be withdrawn.

Rejections Under 35 U.S.C. § 102

The examiner rejected claims 33 and 34 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,133,079 issued to Ballantyne et al. ("Ballantyne"). This rejection is traversed. As indicated above, claims 43-44 correspond to cancelled claims 33-34.

The Ballantyne patent discloses a system having a central or regional distribution center wherein a video may be stored and accessed by a unique identification code. When a user requests a particular video, the system appends a customer identification number (UIN) to the video. This UIN is also embedded in the customer video storage system (at the customer's location) ensuring a one-to-one match between the customer and the requested movie. *See* the Ballantyne patent, col. 6, ll. 24-34. In other words, the system automatically downloads the requested video to the customer's premises with a matching UIN. The customer cannot request that the video be sent to another premises. Rather, the video can only be sent to the pre-determined user premises containing the customer video storage system with the matching UIN.

Conversely, the claimed invention includes a transmission system that transmits information to any premises chosen by the user that has a specified receiver. *See* Appl. No. 08/630,590, page 4, ll. 4-5. In order to place an order, the user enters a customer ID code and makes a selection by entering a corresponding identification code for the desired item. Upon receiving confirmation, the user selects the desired delivery time and *destination*. *Id.* at page 30, line 15 - page 31, line 10 (*See also* page 31, line 14; page 32, line 26, page 33, line 6). That destination is not limited to a pre-determined user premises. Thus, the Ballantyne patent fails to teach a transmission system as claimed in independent claim 43, which transmits information to a *premises selected by the user* with that premises not being limited to a pre-determined user premises. Independent claim 43 and claim 44 depending therefrom should therefore be allowed.

Notably, Applicants have used the term "location" to refer to a premises, rather than merely space in a particular structure. For example, Applicants distinguished U.S. Patent No. 4,506,387, issued to Walter ("the Walter patent") based upon the fact that the system disclosed in the Walter patent requires a dedicated cable wired to the viewer's *premises* and that the viewer be at that *location* for both ordering and viewing the audio/video material. *Id.* at page 2, ll. 14-21.

The Examiner also rejected claims 35-42 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,093,718 issued to Hoarty et al. ("Hoarty"). This rejection is similarly traversed. As noted above, claims 45-52 correspond to cancelled claims 35-42.

The Hoarty patent discloses an interactive home information system for supplying digital audiovisual information to users in their homes. The system includes a regional processing center, which is connected to information providers and a plurality of headend computers. Each headend computer is connected to a separate cable TV network, which includes a plurality of nodes. Each node, in turn, is connected to about 60 homes. In each home, a Home Interface

Control (HIC) connects to a subscriber's TV set. Each node is capable of independently and simultaneously serving up to 31 of these HICs.

Information providers download the original data in digitized video and audio formats to the regional processing center. The regional processing center processes, assembles, and distributes complete system-standardized sets of information to each of the headend computers. Each headend computer acts as a store and forward device to receive this data and rebroadcast it to all of the nodes in its respective cable system. The nodes receive and store all of the data broadcast by the headend computer. The entire database is therefore locally accessible by the user.

In operation, the subscriber tunes a television to a non-interactive system channel, which displays the latest television listings. If the subscriber desires to interactively use the system, he or she must request an interactive channel by pressing a key on a remote control. When the user presses the key on the remote control, the system *automatically* selects an available channel, if any, and reserves the channel for the requesting HIC. All channels are scrambled and can only be descrambled by the HIC to which it was allocated. In other words, the system automatically allocates this channel for exclusive use by the requesting subscriber. The system automatically responds to the subscriber's request by downloading the requested information to the requesting HIC. Other subscribers within the network cannot access this particular channel, and the subscriber cannot alter the destination of the requested information.

Similar to the Ballantyne patent, the Hoarty system does not allow the user to ***select*** another premises or a subscriber ***selectable*** receiving station to which information is transmitted as claimed in independent claims 45, 49, and 52. Independent claims 45, 49, and 52 and the claims depending therefrom should therefore be allowed.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

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Date: June 7, 1999

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